TWENTY-SIXTH REPORT

PUBLIC ACCOUNTS COMMITTEE
(1980-81)

(SEVENTH LOK SABHA)

ASSESSMENT OF FOREIGN TECHNICIANS

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Presented in Lok Sabha on
Laid in Rajya Sabha on

LOK SABHA SECRETARIAT
NEW DELHI

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INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Twenty-Sixth Report of the Public Accounts Committee (Seventh Lok Sabha) on paragraph 48 of the Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Vol. II—Direct Taxes relating to the Ministry of Finance (Department of Revenue). Paragraph 48 dealt with in this report relates to grant of exemption from income-tax in respect of remuneration of foreign technicians employed in India.

2. The Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Vol. II, Direct Taxes was laid on the Table of the House on 12 April, 1978. The Public Accounts Committee (1978-79) examined the paragraph relating to assessment of foreign technicians at their sitting held on 14 September, 1978 but could not finalise the Report.

3. The Public Accounts Committee (1980-81) considered and finalised this Report at their sitting held on 12 September, 1980, based on the evidence taken and the written information furnished by the Ministry of Finance (Department of Revenue). The Minutes of the sittings of the Committee form Part *II of the Report.

4. A statement containing the conclusions/recommendations of the Committee is appended to the Report (Appendix). For facility of reference, these have been printed in thick type in the body of the Report.

5. The Committee place on record their appreciation of the commendable work done by the Chairman and Members of the Public Accounts Committee (1978-79) in taking evidence and obtaining information for this Report.

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6. The Committee also place on record their appreciation of the assistance rendered to them in the examination of the subject by the Comptroller and Auditor General of India.

7. The Committee would also like to express their thanks to the officers of the Ministry of Finance and Department of Industrial Development for the cooperation extended by them in giving information to the Committee.

October 24, 1980.
Kartika 2, 1902 (*S*)
NEW DELHI;

Chairman,
Public Accounts Committee.
CHANDRAJIT YADAV,

REPORT

ASSESSMENT OF FOREIGN TECHNICIANS

A. *Audit Paragraph*

1.1. The Income-tax Act. 1961, allows, under certain conditions, exemption from tax to remuneration of foreign technicians in the employment of Government or a local authority or a statutory corporation or any business carried on in India. The exemption is admissible for a period of 36 months from the date of arrival in India in the case of technicians whose services as such commenced from a date prior to 1st April, 1971 and for a period of 24 months from the date of arrival in the case of those whose services commenced from a date on or after 1st April, 1971, where the technician continues, with the approval of the Central Government, to remain in employment in India beyond the said period of 36 or 24 months and the tax on his remuneration is paid by the employer, the tax so paid is not taxed as a perquisite in the hands of the technician for a further period of 5 years in the former case and two years in the latter case.

1.2. One of the conditions for the grant of the aforesaid exemption is that the contract of service of the foreign technician should be approved by the Central Government. In the case of those whose services commenced before 1st April, 1971, this approval has to be obtained before or within one year of the commencement of service while in the case of those whose services commenced on or after that date, the application for approval should have been made to the Central Government before or within 6 months of the commencement of service. There is no provision in the Act for condoning any delay in this regard. A test check conducted in Andhra Pradesh, Maharashtra, Tamil Nadu and West Bengal revealed 46 cases of foreign technicians where the approval of the Central Government was not obtained within the prescribed time but the exemption was still granted. The loss of tax revenue in 43 of these cases amounted to Rs. 26,20,252 exclusive of interest that could be levied under the Act for non-deduction of tax at source by the employers, for the remaining three cases tax effect could not be collected for want of necessary details.

1.3. In Kerala, in the case of the foreign technician who arrived prior to 1st April, 1971, the contract of service was approved by the

Central Government on a salary of Rs. 5,500 per month before July, 1969 and Rs. 6,600 per month from July, 1969 on-wards. The employer, however, paid a higher salary to this technician. As an important condition of the approval was violated, it could not be treated as a case carrying the approval of the Central Government. The erroneous exemption allowed in this case resulted in a short levy of tax of Rs. 90,000.

1.4. The concession is admissible only to technicians in the employment of Government or a local authority or a statutory corporation or a business carried on in India. In other words, the concession is not admissible to those in the employment of foreign enterprises who are governed by a separate provision in the Act. Nevertheless, it was noticed during a test check in Assam, Madhya Pradesh and West Bengal that exemption was allowed in the case of 10 foreign technicians under this provision although they were employees of the foreign collaborators only. The loss of revenue in these cases amounted to Rs. 9,38,164.

1.5. One of the conditions for the grant of this exemption is that the foreign technician should not have been resident in India in any of the four financial years immediately preceding the financial year in which he arrived in India. In Tamil Nadu exemption was allowed in two cases even though this condition was not satisfied. This involved a tax undercharge of Rs. 44,760.

1.6. In the case of those whose services commenced on or after 1st April, 1971, the exemption is limited to an amount of Rs. 4,000 per month. In 16 cases in Rajasthan and Tamil Nadu, however, it was noticed that remuneration in excess of that limit had also been exempted. This erroneous exemption resulted in a short levy of tax of Rs. 59,417.

1.7. For the purpose of this exemption "technician" is defined in the Act as a person having specialised knowledge and experience in constructional or manufacturing operations or in mining or in generation of electricity or any other form of power or in agriculture, animal husbandry, dairy farming, deep sea fishing, or ship building. In Bombay, the exemption was allowed in the case of two foreigners employed by a company running a hotel business; one was employed as director of kitchen services and the other as Chief pattissier. The tax foregone in these two cases in the assessment years 1973-74 and 1974-75 amounted to Rs. 38,959.

1.8. In order to discourage payment of very high salaries and perquisities, the Income-tax Act also provides for salaries and perquisites beyond certain limits being not allowed in the computation of business income of the employers. In respect of the foreign technicians mentioned here, the amounts to be disallowed as such are:

(i) Before 1st April, 1972, the value of perquisites (other than tax paid by the employer on behalf of the technician) in excess of 1/5 of salary or Rs. 1,000 per month, whichever is less and;

(ii) From 1st April, 1972, the amount of salary in excess of Rs. 5,000 per month and the value of perquisites in excess of 1/5 of salary or Rs. 1,000 per month, whichever is less, in respect of any period during which the technician is not entitled to exemption.

1.9. In Maharashtra and West Bengal, it was, however, noticed that in 18 cases, these provisions were not followed and salaries and perquisites amounting to Rs. 3,12,02,407 were, incorrectly, allowed in the computation of business income of 9 employers.

1.10. The paragraph was sent to the Ministry of Finance in August, 1977. They have accepted the objection in 12 cases, and given part reply in 5 cases. For the remaining cases, their reply is awaited (February, 1978).

[Paragraph 48 of the Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes]

B. *Legal Provisions*

1.11. Section (4)3 (XIV) (a) was inserted in the Income-tax Act, 1922, from 1st April, 1955. It had provided for certain exemptions on the remuneration of foreign technicians under certain conditions. Initially the exemption was provided for a longer duration if the contract of service was approved before the commencement of the technician's service in India. It was clarified in the press note dated 14 April, 1956 by Government that the request must be made sufficiently early so that Government's decision might be communicated before the individual took up the appointment, in order to be eligible to the benefit of exemption. Later on, from 1 April, 1964 the provi-

sion was amended providing that the approval should be obtained before commencement of service or within one year of such commencement.

1.12. Under Section 10(6)(vii) of the Income-tax Act, 1961, however, the position is that in the case of an individual who is not a citizen of India, the following income is not includible in computing the total income of a previous year:—

(vii) "The remuneration due to or received by him chargeable under the head "Salaries" for services rendered as a technician in the employment (commencing from a date before the 1st day of April, 1971) of the Government or of a local authority or of any Corporation set up under any special law or business carried on in India, if he was not resident in any of the four financial years immediately preceding the financial year in which he arrived in India to the extent mentioned below:—

(a) where his contract of service is approved by the Central Government before the commencement of his service or within one year of such commencement:—

(i) in the case of a technician who has special knowledge and experience in industrial or business management techniques, such remuneration due to or received by him during the period of six months commencing from the date of his arrival in India;

(ii) in the case of any other technician, such remuneration due to or received by him during the thirty-six months commencing from the date of his arrival in India, and where any such person continues with the approval of the Central Government obtained before 1st day of October of the relevant assessment year to remain in employment in India after the expiry of the thirty-six months aforesaid and the tax on his income chargeable under the head "Salaries" is paid by the employer to the Central Government [which tax in the case of an employer being a company may be paid notwithstanding anything contained in Section 200 of the Companies Act, 1956 (1 of 1956)], the tax so paid by the employer for a period not exceeding sixty months following the expiry of the thirty-six months of aforesaid;

(b) in any other case, not being the case of a technician who has special knowledge and experience in industrial or business management techniques, such remuneration due to or received by him for the period of three hundred and sixty-five days in all commencing from the date of his arrival in India.

Explanation: For the purposes of this sub-clause, "technician" means a person having specialised knowledge and experience in:—

(i) constructional or manufacturing operations, or in mining or in the generation or distribution of electricity or any other form of power, or

(ii) industrial or business management techniques, who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised."

Sub-clause (vii a) of Section 10(6) stipulates:—

"(viia) where such individual renders services as a technician in the employment (commencing from a date after the 31st day of March, 1971) of the Government or of a local authority or of any Corporation set up under any special law or of any such institution or body established in India for carrying on scientific research as is approved for the purposes of this sub-clause by the prescribed authority or in any business carried on in India and the following conditions are fulfilled, namely, that—

(1) the individual was not resident in India in any of the four financial years immediately preceding the financial year in which he arrived in India, and

(2) the contract of his service in India is approved by the Central Government, the application for such approval having been made to that Government before the commencement of such service or within six months of such commencement,

the remuneration for such Services due to or received by him, which is chargeable under the head "Salaries", to the extent mentioned below, namely:—

(A) Such remuneration due to or received by him during the period of twenty-four months commencing from the date of his arrival in India, in so far as such remuneration does not exceed an amount calculated at the rate of four

thousand rupees per month, and where the tax on the excess, if any, of such remuneration for the period aforesaid over the amount so calculated is paid to the Central Government by the employer [which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in Section 200 of the Companies Act, 1956 (1 of 1956)], also the tax so paid by the employer, and

(B) where he continues, with the approval of the Central Government obtained before the 1st day of October of the relevant assessment year, to remain in employment in India, after the expiry of the period of twenty-four months aforesaid and the tax on his income chargeable under the head "Salaries" is paid to the Central Government by the employer [which tax, in the case of an employer being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956)] the tax so paid by the employer for a period not exceeding twenty-four months next following the expiry of the first mentioned twenty-four months:

Provided that the Central Government may, if it considers it necessary or expedient in the public interest so to do, waive the condition specified in item (1) of this sub-clause in the case of any individual who is employed in India for designing, erection or commissioning of machinery or plant or supervising activities connected with such designing, erection or commissioning.

C. *Definition of Technician*

1.13. The term technician has been defined in Section 10(6) (viia) as follows:—

"Explanation: For the purposes of this sub-clause, 'Technician' means a person having specialised knowledge and experience in—

(i) constructional or manufacturing operations, or in mining or in the generation of electricity or any other form of power, or

(ii) agriculture, animal husbandry, dairy farming, deep-sea fishing or ship building, or

(iii) such other field as the Central Government may, having regard to the availability of Indians having specialised knowledge and experience therein, the needs of the country and other relevant circumstances, by notification in the Official Gazette, specify,

who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised."

1.14. During evidence, the Finance Secretary was asked whether a foreigner who had no technical qualification could be employed in India and allowed the tax concession. He replied:

"I suppose the emphasis is on knowledge and experience and not so much on qualification."

1.15. The Committee pointed out that since the incorporation of the definition in the Income tax Act, many technical skills would have come to be developed in the country. It was therefore, not in national interest to continue to employ foreign technicians in those fields without assessing the local availability of talents and skills. The Finance Secretary further stated in his evidence:

"I would agree with you that in according administrative approval for the employment of foreign technicians in India, the Ministry will have to apply increasingly stiffer standards in view of the availability of Indian talent in various fields. We have to be selective in our approach."

1.16. Asked why the definition of 'technician' given in the Income-tax Act, 1961 should not be changed to guard against the possibility of foreign technicians getting employment in India even in fields where technical skill is locally available, the Finance Secretary assured:—

"I concede that this has to be periodically reviewed though one cannot prescribe a regular period within which it should be reviewed. We shall review and see whether an amendment to law or executive instructions is called for."

1.17. Asked what was the genesis of the policy of employment of foreign technicians in India, when this policy was laid down and how often it was reviewed, the Ministry, in a note, stated:

"The Ministry of Industry who were addressed in the matter have given the following reply:

Employment of foreign technicians was being allowed even prior to 1950. This is evident from the fact that the Government of India Resolution on Industrial Policy dated 6-4-1948, makes a reference about training of suitable Indian Personnel for the purposes of eventually replacing foreign experts. No set policy seems to have been laid down at any stage in respect of engagement of foreign technicians.

In the absence of any general policy the question of undertaking a review of the policy does not arise. In any case, we are not aware of any such review having been done."

1.18. The Committee desired to know whether the Ministry of Industry had conducted periodical surveys to find out how many foreign technicians were employed in India and in what fields. In reply, the representative of the Ministry of Industry (Department of Industrial Development) stated:

"At the express desire of the Prime Minister, our economic officers in the Ministry of Industry have been conducting a survey every year from 1952 on the employment position of Indians and non-Indians drawing total monthly salary of Rs. 2001 and above. But this is not a complete census of the type which the Income-tax Department may be doing. There may be slight variations. Till 1973, we used to call for this information by public notice. From 1974-75 as a measure of economy, and also since the problem had become less, it is done only by addressing letters to companies which are on the register as well as to the administrative Ministries and Departments of the Central Government to get the list up to date."

1.19. Asked how far the information collected in this manner could be regarded as authentic, the witness replied:

"This is a voluntary information collected from Companies. As this has been compiled from employment returns submitted voluntarily, to that extent, this may not have the maximum coverage."

1.20. Disclosing the result of census made by the Department of Industrial Development, the witness gave the following figures:

Year	Total employment in foreign owned & controlled companies drawing monthly emoluments of more than Rs. 2,000 a month	No. of Non-Indians	Percentage of Non-Indians
1965	7,175	2,590	36.1
1975	15,436	210	3.3

1.21. The Committee desired to know whether such an analysis was made after 1975 also. The representative of the Department of Industrial Development said:

> "The analysis for 1976 is under preparation. We have ourselves decided that from 1976 onwards, it will be done once in two years, that is, in 1978 and 1980."

1.22. The afore-mentioned figures do not represent the figures of foreign technicians employed in India in 1965 and 1975. These apparently relate to the employment of all non-Indian, technicians or otherwise, working in foreign owned and controlled companies and who are drawing monthly emolument of more than Rs. 2000/-.

1.23. The Ministry of Home Affairs have, in a note, intimated that the information regarding the movement of the foreign technicians in India is not maintained by any Central agency.

1.24. The Committee are surprised to note the statement that no set policy seems to have been laid down at any stage in respect of engagement of foreign technicians and in the absence of any general policy the question of undertaking a review thereof did not arise. The Committee fail to understand how in the absence of a policy formulated in consultation with the administrative Ministries concerned, the relevant provisions giving tax concessions to certain foreign technicians could be made in the Income-tax Act. In fact, the relevant provisions, and in particular the definition of technician, were amended in 1970 and again in 1979. Taken to its logical conclusion, the statement now made to the Committee would seem to suggest that these amendments were proposed without formulating a policy in the matter, much less conducting a review therof. The Committee suggest that Government should find out complete details connected with employment of foreign technicians in India particularly vis-a-vis the available Indian expertise and thereafter take appropriate action to formulate a policy about the employment of foreign technicians and the tax concessions to be given to them.

Such policy should be reviewed periodically keeping in view the development of technical skills in the country and other relevant factors, and in the fields where sufficient Indian talent is already available, there will be a case for reviewing clauses (i) and (ii) of the Explanation to Section 10(6)(vii a) of the Income-tax Act.

1.25. The Committee are deeply distressed that concerned Ministries failed to maintain appropriate records of the particulars of the contracts of service of the foreign) technicians who came to serve in India. The figures supplied by the Ministry of Industry were not those asked for. The figures gave information which had no bearing what so ever on the question of tax concessions to foreign technicians. On the basis of the approval given by Ministries under the statute very substantial tax concession has been given to concerned technicians and as such it has been a matter of great importance to the Exchequer. The Committee must observe that the Ministries did not give appropriate care and attention to this matter.

1.26. The Committee stress that the administrative Ministries approving the agreements must keep full and elaborate records of the same and a copy of the agreement should invariably be sent to the Ministry of Finance as soon as such agreements are finalised. On the basis of information received from the various Ministries, the Finance Ministry should be made fully responsible for maintaining detailed record of particulars of contracts of service of foreign technicians so that all the relevant information is available in one Ministry.

1.27. The Committee are also of the opinion that the relevant provisions in respect of the tax concessions given to foreign technicians are rather complicated and needs rationalisation and simplification for their proper administration.

D. *Approval of contracts of service of foreign technicians*

1.28. Under Section 10(6) (vii) of the Income-tax Act the remuneration of a foreign technician whose service commenced from a date prior to 1 April, 1971 is exempt from tax on the conditions that this contract of service is approved by the Central Government before the commencement of his service or within one year of such commencement.

1.29. One 23 May, 1968, the Ministry of Finance (Department of Revenue and Insurance) had written to the Ministries of the Government of India on the following lines:—

> "Under the provisions of Section 10(6) (vii) of the Income-tax Act, 1961, the Central Government's approval referred to above is to be granted either before the commencement of the technician's service in India or within one year of such commencement. It is, however, observed that in a number of cases, the grant of such approval is delayed by the Ministries beyond the period of one year, with the result that such cases are referred to this Department for condoning the delay in the grant of approval. Such procedure will not be in compliance with the statutory provisions of the Income-tax Act. The Ministries are, therefore, requested to ensure in future that applications for Government's approval are processed in good time so that the necessary orders are issued by them within the statutory period."

1.30. According to Audit paragraph, a test check by Audit in Andhra Pradesh, Maharashtra, Tamil Nadu and West Bengal revealed that even though there is no provision in the Income-tax Act for condoning any delay in this regard, there were as many as 46 cases of foreign technicians where the approval of the Central Government was not obtained within the prescribed time but the exemption from tax was still granted. The loss of tax revenue in 43 out of these 46 cases amounted to Rs. 26.20 lakhs exclusive of interest that could be levied under the Act for non-deduction of tax at source by the employers.

1.31. The Ministry of Finance were asked to indicate the facts pertaining to the 46 cases referred to in the Audit paragraph. The facts gathered by the Ministry of Finance from the administrative Ministries also explain the reasons for delay in submission, processing and approval of applications for approval of contracts of service.

1.32. In the specific cases of technicians working in Hyderabad, the Ministry have stated that they had, after consultation with the Ministry of Law, sent a clarification to the Department of Industrial Development on 23 September, 1975 as under:—

> "The question whether a general approval granted by the Central Government to an agreement for technical col-

laboration providing, *inter alia*, for the terms of their deputation will constitute such approval of the contract of service of a foreign technician coming to India in terms of that agreement, has since been examined in consultation with the Ministry of Law in the case of public sector undertakings. It was decided that in the case of an agreement which satisfied the following conditions, the contract of service of the foreign technicians could be said to have been approved by the Central Government before the commencement of service if the administrative Ministry could certify that while according approval to the technical collaboration agreement between the public sector undertaking and the foreign party, the intention was that exemption would be available to the foreign technician in respect of his remuneration u/s 10(6) (vii) of the Income-tax Act, 1961.

The conditions to be satisfied are:

(a) The agreement between the Indian party and the foreign party was approved by the Central Government through the administrative Ministry concerned before it was actually signed.

(b) The agreement provides for the service of certain foreign technicians being made available to the Indian party.

(c) The agreement stipulates in detail the terms of deputation/engagement of foreign technicians.

(d) The agreement also provides for the taxes, if any in respect of remuneration of the foreign technicians being borne by the Indian party.

(e) Apart from what has been stipulated in the agreement between the Indian party and the foreign party, no separate contract of service has been drawn up between the foreign technician and the Indian party.

(f) The Indian party to the agreement is a public sector undertaking."

1.33. The Department of Industrial Development were also advised to issue letters of approval which would indicate that the appointment of the respective technicians had already been approved by the Government before the commencement of service. The Department of Industrial Development accordingly issued necessary revised sanctions.

1.34. The Committee desired to know whether Government agreed that in 46 cases of foreign technicians pointed out by Audit, exemption was wrongly granted because in these cases approval of Central Government was not obtained within the statutory time limit. In reply, the Finance Secretary conceded in evidence:—

> "I think the audit point is correctly made that even in the cases where the approval was not given within the time limit, the Department gave the tax exemption."

The Chairman, Central Board of Direct Taxes added:—

> "Subject to this clarification, as was pointed out just now, there are some cases where the collaboration agreements themselves have this clear instruction given to the foreign technicians and on the advice of the Law Ministry, we have construed that the necessary clearance has been given to these foreign technicians. So it was agreed a few months ago that we would again study the facts of the case in consultation with the CAG and the Law Ministry, and then find out the correct position. Out of 46 cases, some may be brought to the Law Ministry for a second reference."

1.35. Under Section 10(6) (viia) of the Income-tax Act the remuneration of a foreign technician whose service commenced after 31 March, 1971 is exempt from tax on the condition that the contract of his service in India is approved by the Central Government, the application for such approval having been made to that Government before the commencement of such service or within six months of such commencement. No time limit has been prescribed in law within which Government's approval to the contract is to be accorded.

1.36. In their O.M. No. 458|4|73-FTD-II dated 5-12-1973, addressed to the Ministries of the Government of India, the Ministry of Finance had clarified:

> "In this connection, attention is invited to the provisions of section 10(c) (viia) of the Act, according to which one of the conditions to be fulfilled for approval of the contract of service is that the application for such approval should have been made to the Central Government either before the commencement of such service or within six months of such commencement. There is no provision in the law for condoning delay in submission of

such applications. The making of an application to the Reserve Bank of India is not to be treated as application made to the Central Government for this purpose. The Ministry of Industrial Development, etc., are therefore, requested to please note that the grant of approval to contracts of service in cases of belated applications will not entitle such technicians to the exemption from Income-tax and approval should not be accorded in cases where the applications are not made within time as mentioned above."

1.37. The Committee asked how is it that while the Income-tax Act provides the time limit within which applications for exemption should be made, it does not lay down any time limit by which Central Government should accord approval. The Finance Secretary replied:

"When you say that there should be no avoidable delay in according approval, it is not contested. But the law should recognize that such delays might arise."

1.38. The Committee note that in May 1968 the Ministry of Finance had written to the administrative Ministries concerned inviting their attention to the requirement in the Income-tax Act of the approval to the contracts of service being obtained within the specified period. The Committee cannot but observe that the administrative Ministries concerned who were required to accord approval to the contracts of service for the purpose of this tax concession should have been aware of the provisions of the law under which the approval was to be given. The negligence shown by the administrative Ministries in according approval to the contracts of service after expiry of the specified period, and by the assessing authorities in allowing tax concessions in violation of the statutory provisions must be deprecated.

E. *Computation of business income of Employers*

1.39. In order to discourage payment of very high salaries and perquisites, the Income-tax Act also provides for salaries and perquisites beyond certain limits being not allowed in the computation of business income of the employers.

1.40. Under Section 40A(5) of the Income-tax Act, the limits are as under:

(i) Before 1 April, 1972, the value of perquisites (other than tax paid by the employer on behalf of the technician) in

excess of 1/5th of salary or Rs. 1,000/- per month, whichever is less; and

(ii) From 1 April, 1972, the amount of salary in excess of Rs. 5,000 per month and the value of perquisites in excess of 1/5th of salary or Rs. 1,000 per month, whichever is less, in respect of any period during which the technician is not entitled to exemption.

1.41. As stated in the Audit paragraph, in 18 cases in Maharashtra and West Bengal, these provisions were not followed resulting in salaries and perquisites amounting to Rs. 3,12,02,407 being incorrectly allowed in the computation of business income of 9 employers. The Ministry of Finance have accepted the objection in 4 cases. In one case they have stated that it is exempt. Other cases are stated to be under verification.

1.42. The Ministry of Finance have admitted that these mistakes had escaped notice primarily because of "lack of coordination between the Income-tax Officers assessing the cases of technicians and Income-tax Officers assessing the cases of the employer."

1.43. As regards remedial measures, the Ministry of Finance have intimated that the Central Board of Direct Taxes have issued instructions on 12 September, 1978 pointing out the lacuna and enjoying upon the assessing officers and the Internal Audit parties to ensure proper coordination and avoid such mistakes.

1.44. The undue relief allowed to the employers in respect of salaries and emoluments paid to their employees beyond the limits contemplated in Section 40A(5) of the Income-tax Act are essentially attributable to lack of coordination between the officers assessing the employers and the officers assessing the employees. The quantum involved is substantial. The Committee should like to refer to their earlier Report (186th Report—5th Lok Sabha) where while dealing with Direct Taxes inter alia **it is pointed out as under:**

> **'It would thus appear that, apart from the weakness of Internal Audit and the lack of pre-scrutiny of collaboration agreements, there are other more basic factors responsible for income escaping assessment. In the first place, there seems to be a chronic lack of coordination (i) among the assessing officers of the department itself, (ii) among the assessment records pertaining to different direct taxes, particularly income-tax and wealth tax, (iii) among the Income-tax Department and the other tax collecting**

departments of the Central and State Governments and (iv) among the Central Board of Direct Taxes and the administrative Ministries entering into or approving foreign collaboration agreements.'

It appears that the weakness in the system persists as a result of lack of proper coordination between different assessing officers. This is a serious weakness in the set up of the Direct Taxes administration. The Committee should like to know as to what steps are being contemplated to evolve a foolproof method of the working of the department to ensure better coordination between different officers assessing under different Direct Taxes. The Committee consider that the steps taken so far including the instructions issued on 12 September, 1978, referred to earlier, cannot take care of the situation. The seriousness of that problem needs to be properly appreciated and requires appropriate steps to be expeditiously taken in the matter.

NEW DELHI;
October 24, 1980
Kartika 2, 1902 (*S*)

CHANDRAJIT YADAV,
Chairman,
Public Accounts Committee.

APPENDIX

Conclusions/Recommendations

Sl.No.	Para No. of the Report	Ministry / Deptt. Concerned	Conclusions/Recommendations
1	2	3	4
1.	1.24	Finance (Deptt. of Revenue)	The Committee are surprised to note the statement that no set policy seems to have been laid down at any stage in respect of engagement of foreign technicians and in the absence of any general policy the question of undertaking a review thereof did not arise. The Committee fail to understand how in the absence of a policy formulated in consultation with the administrative Ministries concerned, the relevant provisions giving tax concessions to certain foreign technicians could be made in the Income-tax Act. In fact, the relevant provisions, and in particular the definition of technician, were amended in 1970 and again in 1979. Taken to its logical conclusion, the statement now made to the Committee would seem to suggest that these amendments were proposed without formulating a policy in the matter, much less conducting a review thereof. The Committee suggest that Government should find out complete details connected with employment of foreign technicians in India particularly *vis-a-vis* the available Indian expertise and thereafter take appropriate action to formulate a policy about the employment

1	2	3	4
			of foreign technicians and the tax concessions to be given to them. Such policy should be reviewed periodically keeping in view the development of technical skills in the country and other relevant factors, and in the fields where sufficient Indian talent is already available, there will be a case for reviewing clauses (i) and (ii) of the Explanation to Section 10(6) (viia) of the Income-tax Act.
2.	1.25	Finance (Deptt. of Revenue)	The Committee are deeply distressed that concerned Ministries failed to maintain appropriate records of the particulars of the contracts of service of the foreign technicians who came to serve in India. The figures supplied by the Ministry of Industry were not those asked for. The figures gave information which had no bearing whatsoever on the question of tax concessions to foreign technicians. On the basis of the approval given by Ministries under the statute very substantial tax concession has been given to concerned technicians and as such it has been a matter of great importance to the Exchequer. The Committee must observe that the Ministries did not give appropriate care and attention to this matter.
3.	1.26	-do-	The Committee stress that the administrative Ministries approving the agreements must keep full and elaborate records of the same and a copy of the agreement should invariably be sent to the Ministry of Finance as soon as such agreements are finalised. On the basis of information received from the various Ministries, the Finance Ministry should be made fully responsible for maintaining

			detailed record of particulars of contracts of service of foreign technicians so that all the relevant information is available in one Ministry.
4.	1.27	-do-	The Committee are also of the opinion that the relevant provisions in respect of the tax concessions given to foreign technicians are rather complicated and needs rationalisation and simplification for their proper administration.
5.	1.38	-do-	The Committee note that in May 1968 the Ministry of Finance had written to the administrative Ministries concerned inviting their attention to the requirement in the Income-tax Act of the approval to the contracts of service being obtained within the specified period. The Committee cannot but observe that the administrative Ministries concerned who were required to accord approval to the contracts of service for the purpose of this tax concession should have been aware of the provisions of the law under which the approval was to be given. The negligence shown by the administrative Ministries in according approval to the contracts of service after expiry of the specified period, and by the assessing authorities in allowing tax concessions in violation of the statutory provisions must be deprecated.

1	2	3	4
6.	1.44	Finance (Deptt. of Revenue)	The undue relief allowed to the employers in respect of salaries and emoluments paid to their employees beyond the limits contemplated in Section 40A(5) of the Income-tax Act are essentially attributable to lack of coordination between the officers assessing the employers and the officers assessing the employees. The quantum involved is substantial. The Committee should like to refer to their earlier Report (186th Report—5th Lok Sabha) where while dealing with Direct Taxes *inter alia* it is pointed out as under: 'It would thus appear that, apart from the weakness of Internal Audit and the lack of pre-scrutiny of collaboration agreements, there are other more basic factors responsible for income escaping assessment. In the first place, there seems to be a chronic lack of coordination (i) among the assessing officers of the department itself, (ii) among the assessment records pertaining to different direct taxes, particularly income-tax and wealth tax, (iii) among the Income-tax Department and the other tax collecting departments of the Central and State Governments and (iv) among the Central Board of Direct Taxes and the administrative Ministries entering into or approving foreign collaboration agreements.' It appears that the weakness in the system persists as a result of lack of proper coordination between different assessing officers.

This is a serious weakness in the set up of the Direct Taxes administration. The Committee should like to know as to what steps are being contemplated to evolve a foolproof method of the working of the department to ensure better coordination between different officers assessing under different Direct Taxes. The Committee consider that the steps taken so far including the instructions issued on 12 September, 1978, referred to earlier, cannot take care of the situation. The seriousness of that problem needs to be properly appreciated and requires appropriate steps to be expeditiously taken in the matter.

GMGIPMRND—LS II—1885 LS—12-11-80—1150.